

**CANDACE MARLOW  
EXHIBIT A**

CANDACE M. MARLOWE  
JOE HOLCOMBE vs UNITED STATES OF AMERICA

June 18, 2020

1

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS

JOE HOLCOMBE, ET AL., §  
Plaintiffs §  
§  
v. § Civil No. 5:18-cv-555-XR  
§  
§  
UNITED STATES OF AMERICA, §  
Defendant §  
§

\*\*\*\*\*

VIDEOTAPED ORAL DEPOSITION OF

CANDACE MCKENZIE MARLOWE

JUNE 18, 2020

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VIDEOTAPED ORAL DEPOSITION OF CANDACE MCKENZIE MARLOWE, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 18th of June, 2020, from 10:05 a.m. to 2:52 p.m., before Glenda I. Green, Certified Shorthand Reporter in and for the State of Texas, reported by Computerized Stenotype Machine, Computer-Assisted Transcription, with myself, the witness, the videographer, and the witness's attorney located at the offices of Ken Owen & Associates, 801 West Avenue, Suite 100, Austin, Texas, and all other counsel present via Zoom, pursuant to Notice; Subpoena; the Federal Rules of Civil Procedure; the First Emergency Order regarding the COVID-19 State of Disaster; and any further stated provisions on the record. Counsel also agreed off the record that the Federal Rule 30(b)(5) statement being read into the record by the court reporter could be waived.

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1 A P P E A R A N C E S  
2

3 FOR THE PLAINTIFFS:

4 MR. JOSEPH SCHREIBER (Present Via Zoom)  
5 SCHREIBER KNOCKAERT, PLLC  
6 701 North Post Oak Road, Suite 325  
7 Houston, Texas 77024  
Office: 281.949.8904  
Fax: 281.949.8914  
Email: joe@lawdoneright.net

8 MS. CHELSIE KING GARZA (Present Via Zoom)  
9 THE WEBSTER LAW FIRM  
10 6200 Savoy Drive, Suite 150  
11 Houston, Texas 77036  
Office: 713.581.3900  
Fax: 713.581.3907  
Email: cgarza@thewebsterlawfirm.com

12 MR. JUSTIN B. DEMERATH (Present Via Zoom)  
13 O'HANLON, McCOLLUM & DEMERATH  
14 808 West Avenue  
15 Austin, Texas 78701  
Office: 512.494.9949  
Fax: 512.494.9919  
Email: jdemerath@808west.com

16  
17 FOR THE DEFENDANT:

18 MR. AUSTIN L. FURMAN (Present Via Zoom)  
19 MR. DANIEL P. CHUNG (Present Via Zoom)  
20 UNITED STATES DEPARTMENT OF JUSTICE  
21 Torts Branch (FTCA)  
22 P.O. Box 888, Ben Franklin Station  
23 Washington, D.C. 20044  
Office: 202.616.4272  
Fax: 202.616.5200  
Email: austin.l.furman@usdoj.gov  
daniel.p.chung@usdoj.gov

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1 A P P E A R A N C E S (Continued)  
2

3 FOR THE WITNESS:

4 MR. J. GREGORY MYERS  
5 MYERS DOYLE  
6 7676 Woodway, Suite 350  
7 Houston, Texas 77063  
8 Office: 713.278.9215  
9 Fax: 713.278.9163  
10 Email: gmyers@myersdoyle.com

11 ALSO PRESENT:

12 13 MS. LORI STEVENSON, Zoom Moderator  
14 MS. TAYLOR WILLIS, Videographer

15 REPORTED BY:

16 17 MS. GLENDA I. GREEN, CSR 2194  
18 ESQUIRE DEPOSITION SOLUTIONS, Firm No. 003  
19 1235 North Loop West, Suite 510  
20 Houston, TX 77008  
21 Office: 832.214.4221  
22 Email: houstonscheduling@esquiresolutions.com

23 \* \* \* \* \*

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Examination by Mr. Schreiber..... 147

8

(SIGNATURE WAIVED)

9

REPORTER'S CERTIFICATE..... 161

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\* \* \* \* \*

11

## E X H I B I T      I N D E X

12

NUMBER                    DESCRIPTION                    PAGE DESIGNATED

13

Exhibit 1 Subpoena to Produce Documents, 19  
Information, or Objects or to  
Permit Inspection of Premises in a  
Civil Action; Witness's file

14

Exhibit 2 12/6/18 Inspector General, U.S. 150  
Dept. of Defense, Report of  
Investigation into the United States  
Air Force's Failure to Submit Devin  
Kelley's Criminal History Information  
to the Federal Bureau of  
Investigation

15

Exhibit 3 11/7/12 Report of Result of Trial 152

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Exhibit 4 3/22/13 Dept. of the Air Force Memo 154

21

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22

## REPORTER'S NOTE:

24

Quotation marks are used for clarity and do not  
necessarily indicate a direct quote.

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1	MS. WILLIS: This is the videotaped	10:05
2	deposition of Candace Marlowe, in the matter of	10:05
3	Joe Holcombe, et al., versus the United States of	10:05
4	America, being heard before the United States District	10:05
5	Court for the Western District of Texas, Civil Action	10:05
6	No. 518-cv-555-XR.	10:05
7	This deposition is being held at	10:05
8	Ken Owen & Associates, in Austin, Texas. Today's date	10:05
9	is June 18th, 2020; and the time on the record is	10:05
10	10:04 a.m.	10:05
11	My name is Taylor Willis, and I am the	10:05
12	videographer. The court reporter is Glenda Green.	10:05
13	Counsel, will you please introduce	10:05
14	yourselves and affiliations; and the witness will be	10:05
15	sworn.	10:05
16	MR. FURMAN: Austin Furman, for the	10:05
17	defendant, United States.	10:05
18	MR. SCHREIBER: Joseph Schreiber, for the	10:05
19	plaintiffs.	10:05
20	MS. GREEN: Next?	10:06
21	MR. DEMERATH: Justin Demerath, for the	10:06
22	plaintiffs.	10:06
23	MS. KING GARZA: And Garza, for the	10:06
24	plaintiffs.	10:06
25	MR. MYERS: And I'm Greg Myers. I'm	10:06

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1 presenting the deponent.

2 MS. GREEN: This deposition is being 10:07  
3 conducted remotely in accordance with the First 10:07  
4 Emergency Order regarding the COVID-19 State of 10:07  
5 Disaster. 10:076 My name is Glenda Green, Texas CSR 10:07  
7 No. 2194. I am administering the oath and reporting the 10:07  
8 deposition. 10:079 Ma'am, I need to swear you in. Please 10:07  
10 raise your right hand. 10:0711 CANDACE MCKENZIE MARLOWE, 10:07  
12 having first been duly sworn, testified as follows, 10:07  
13 to-wit: 10:07

14 MS. GREEN: Okay, Counsel. 10:07

15 MR. FURMAN: Thank you, ma'am. 10:07

16 EXAMINATION 10:07

17 BY MR. FURMAN: 10:07

18 Q. Good morning, Ms. Marlowe. Could you state 10:07  
19 your full name for the record? 10:07

20 A. Candace McKenzie Marlowe. 10:07

21 Q. Thank you. 10:07

22 And you -- Can you provide me with an 10:07  
23 address? If you don't want to give your home address, a 10:07  
24 business address is fine. 10:07

25 A. 709 Generations Drive, Suite 410, 10:07

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1 as well, but if -- if you need me to zoom in or, umm, if  
 2 there's problems with seeing something, please let me  
 3 know.

4                   Okay. And just so you know, there --  
 5 there's a number in the lower right-hand corner, which  
 6 is almost all of your last name. We forgot the "e" at  
 7 the end. I apologize for that. Umm. But these are the  
 8 documents we received from you, umm, what I believe you  
 9 referred to as the "Kelley file," and we've now marked  
 10 those with a number, so we can refer to them by that  
 11 number, umm, during the deposition today. So if I say  
 12 "Marlowe 1," then I'd be referring to -- to this page.

13                   Umm. In looking at this first page of  
 14 the document, is this a document you've seen before?

15                   A. Yes.

16                   Q. Okay. Now, I'm just going to scroll to the  
 17 remainder of -- of this document.

18                   MR. FURMAN: And for the record, this  
 19 will be Exhibit 1. We'll be marking the -- the file  
 20 provided to us by Ms. Marlowe as Exhibit 1. So that's  
 21 the 47-page document received in response to the  
 22 subpoena.

23                   (Exhibit 1 designated.)

24                   Q. (BY MR. FURMAN) There we go. Is this the  
 25 second page in front of you?

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1	A. Yes.	10:25
2	Q. Page 3?	10:25
3	A. Yes.	10:25
4	Q. Page 4, the instructions?	10:25
5	A. Yes.	10:25
6	Q. And Page 5?	10:25
7	A. Yes.	10:26
8	Q. Does all that look familiar to you?	10:26
9	A. Yes.	10:26
10	Q. Thank you.	10:26
11	(Document taken off screen.)	10:26
12	Q. (BY MR. FURMAN) Thanks.	10:26
13	And what did you do when you received	10:26
14	that document?	10:26
15	(Witness made distinctive sound.)	10:26
16	A. Contacted my lawyer [laughed].	10:26
17	Q. (BY MR. FURMAN) [Laughed]. And that lawyer,	10:26
18	that's Mr. Myers?	10:26
19	A. Yes.	10:26
20	Q. Thank you.	10:26
21	And, umm, did you ultimately search for	10:26
22	documents?	10:26
23	A. Yes.	10:26
24	Q. And where did you search for documents?	10:26
25	A. In my office.	10:26

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1 Q. Okay. And when you say your office, what do  
 2 you mean by that?

3 A. Umm. I have an office that I rent in  
 4 New Braunfels Counseling Center.

5 Q. Okay. And that's the office that you searched  
 6 for records in response to the subpoena?

7 A. Yes.

8 Q. So you keep -- you keep your client files in  
 9 that particular office?

10 A. Yes.

11 Q. And did you keep any client files for -- for  
 12 New Braunfels Counseling clients, do you keep them  
 13 elsewhere, any files?

14 A. No.

15 Q. Do you keep any electronic files for your  
 16 clients?

17 A. No.

18 Q. And the document you provided to us, that was  
 19 the complete file for -- for Mr. Kelley?

20 A. Yes.

21 Q. And did you -- or -- Well, did you take any  
 22 notes regarding your sessions with Mr. Kelley that were  
 23 not in the client file?

24 A. No.

25 Q. And were there any documents for Mr. Kelley

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1 that, umm, might have been lost or destroyed for -- you  
 2 know, due to lapse of time or otherwise removed from the  
 3 file?

4 A. No.

5 Q. All right. And I appreciate your time in  
 6 assembling those documents as well.

7 At this time I'd like to get a little bit  
 8 into your background. Umm.

9 If you could say your, umm -- What's your  
 10 highest level of education?

11 A. I have a master's degree.

12 Q. In what area of study?

13 A. Psychology.

14 Q. I have a master's in psychology as well.

15 Umm. Any other training?

16 A. No. Just psychology [laughed].

17 Q. [Laughed]. Well, that's a good field of  
 18 study, so I can understand that. Umm.

19 And your professional title, that's a  
 20 Licensed Professional Counselor?

21 A. Yes.

22 Q. And what does that mean?

23 A. It means that I'm licensed by the state to  
 24 counsel.

25 Q. And what did you have to do to obtain that

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1	license?	10:30
2	A. Umm. I got my master's degree; and then I did	10:30
3	a certain number of hours supervised by an LPC	10:30
4	supervisor; and then I took a licenser exam.	10:30
5	Q. And was that a written exam?	10:30
6	A. Yes. No. It was electronic. I'm sorry.	10:30
7	Q. Oh. I'm behind the times. I apologize.	10:30
8	Okay. And do you have any sort of --	10:30
9	I -- I don't know how this works for, umm, Licensed	10:30
10	Professional Counselors, but do you have any, like,	10:30
11	equivalent of like a board certification or	10:30
12	specialization within counseling?	10:31
13	A. No.	10:31
14	Q. And -- And are you required to, umm, meet any	10:31
15	requirements to keep that license?	10:31
16	A. Yes. Every two years you renew your license.	10:31
17	You have to do 24 CEUs, continuing edu -- education	10:31
18	credits.	10:31
19	Q. Okay. Anything else?	10:31
20	A. No.	10:31
21	Q. Okay.	10:31
22	A. Well, you pay money [laughed].	10:31
23	Q. I -- I'm sorry. I didn't catch that.	10:31
24	A. I said you -- you pay money for it. Other	10:31
25	than that --	10:31

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1	Q. I -- Of course [laughed]. Of course. It goes	10:31
2	for lawyers as well.	10:31
3	Umm. Are you a member of any	10:31
4	professional organizations?	10:31
5	A. No.	10:31
6	Q. And how long have you been a Licensed	10:32
7	Professional Counselor?	10:32
8	A. For six years.	10:32
9	Q. Six years. So roughly 2014?	10:32
10	A. Yeah.	10:32
11	Q. I'm sorry. What year did you get your	10:32
12	master's degree?	10:32
13	A. I graduated December 2011.	10:32
14	Q. And the time period between your master's and,	10:32
15	umm, getting your license, was that time spent in	10:32
16	accumulating hours to obtain that license?	10:32
17	A. Yeah, as a licensed professional intern,	10:32
18	you -- yeah, I was supervised, and it takes that long to	10:32
19	accumulate the hours for it.	10:32
20	Q. Understood.	10:32
21	And, Ms. Marlowe, are you currently	10:32
22	employed?	10:33
23	A. Yes.	10:33
24	Q. Where do you work currently?	10:33
25	A. I have a contract with New Braunfels	10:33

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1	Counseling Center. It's a private practice.	10:33
2	Q. Anywhere else?	10:33
3	A. No.	10:33
4	Q. And when you say you have a contract, could	10:33
5	you explain that a little more?	10:33
6	A. Umm. The owner of the business has slots for	10:33
7	contracts, people to come in; and basically you're just	10:33
8	renting a room and you pay her a certain amount of --	10:33
9	amount of money to be there for X amount of years.	10:33
10	Q. Okay. And other than renting you the room,	10:33
11	does New Braunfels Counseling provide any other services	10:33
12	for you?	10:33
13	A. They run the billing and make appointments and	10:33
14	keyed up -- keep up with our insurances.	10:34
15	Q. So some of the administrative-type functions?	10:34
16	A. Yes.	10:34
17	Q. Okay. Anything else they do?	10:34
18	A. No [laughed].	10:34
19	Q. And other than sharing the same office space,	10:34
20	do you have any sort of affiliation or relationship with	10:34
21	the other professionals who work out of that office?	10:34
22	A. No.	10:34
23	Q. And -- And do you know what kind of services	10:34
24	are provided, New -- New Braunfels Counseling? Is it	10:34
25	just counseling or do --	10:34

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1	Q. That makes sense.	11:03
2	Do you know why Mr. Kelley was assigned	11:03
3	to you in particular?	11:03
4	A. No.	11:03
5	Q. I'm scrolling again, and this is Marlowe 21.	11:03
6	It looks to be a copy of Mr. Kelley's driver's license.	11:03
7	Umm. Looking at the photo, is this what Mr. Kelley	11:03
8	looked like around the time that you saw him?	11:03
9	A. No.	11:03
10	Q. How did he look different?	11:03
11	A. Umm. His hair was shorter and he didn't have	11:03
12	facial hair.	11:04
13	Q. And do you know why he had a Colorado driver's	11:04
14	license?	11:04
15	A. He lived in Colorado.	11:04
16	Q. And do you know when he came back to Texas	11:04
17	from Colorado?	11:04
18	A. I don't recall.	11:04
19	Q. Understood.	11:04
20	I'm going to jump to the last page here.	11:04
21	A. Oh. Whoops.	11:04
22	Q. I'm on Marlowe 47. It says "New Braunfels	11:04
23	Counseling Center, Initial Assessment." Do you see	11:04
24	that?	11:04
25	A. Yes.	11:04

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1	Q. Okay. And what is this form?	11:04
2	A. This is the form we utilize with every new	11:04
3	patient to just do the diagnosis. It's just getting a	11:05
4	gist of what the whole picture looks like of the person.	11:05
5	Q. And that's the first time you meet with a	11:05
6	client?	11:05
7	A. Yes. It's the initial assessment.	11:05
8	Q. Umm. Okay. And -- And what are your goals	11:05
9	during that first meeting?	11:05
10	A. To assess how treatment will be and if it's a	11:05
11	fit for them to stay with me.	11:05
12	Q. And how long is the initial appointment	11:05
13	typically?	11:05
14	A. Just an hour.	11:05
15	Q. Do you recall if it was any longer or shorter	11:05
16	for Mr. Kelley's first appointment?	11:05
17	A. Umm. I don't recall.	11:05
18	Q. And on this form, is that your handwriting?	11:06
19	A. Yes [laughed].	11:06
20	Q. And is that your signature at the bottom?	11:06
21	A. Yes.	11:06
22	Q. And the date in the upper right-hand corner of	11:06
23	June 6th, 2016, does that sound right?	11:06
24	A. Yes.	11:06
25	Q. And on this form there are various categories.	11:06

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1	It says "Presenting Problem," "Symptoms," "Diagnosis."	11:06
2	And are these the categories of questions you would ask	11:06
3	a client during the first meeting?	11:06
4	A. Yes.	11:06
5	Q. You did you have any -- any sort of standard	11:06
6	structure or format for asking these questions?	11:07
7	A. No.	11:07
8	Q. All right. Now looking at the form, it says	11:07
9	ref -- "Referred From: Google." So it sounds like he	11:07
10	just -- he found New Braunfels Counseling online. Is	11:07
11	that your understanding?	11:07
12	A. Yes.	11:07
13	Q. And under "Presenting Problem," umm, it says,	11:07
14	"just need to talk." Umm. Is that something clients	11:07
15	commonly put in the area?	11:07
16	A. Sometimes.	11:07
17	MS. GREEN: Commonly what?	11:07
18	MR. MYERS: "Put."	11:07
19	MS. GREEN: "Put."	11:07
20	Q. (BY MR. FURMAN) And during that first meeting,	11:08
21	did he provide any detail about what he wanted to talk	11:08
22	about?	11:08
23	A. I don't recall.	11:08
24	Q. At a later time did you come to realize or	11:08
25	understand why you thought Mr. Kelley was in treatment	11:08

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1	with you?	11:08
2	A. The more we talked, it was predominantly	11:08
3	stress management about finances.	11:08
4	Q. So stress management of finances was the	11:08
5	primary issue?	11:08
6	A. Yeah.	11:08
7	Q. And any other significant issues that he	11:08
8	brought up during the sessions?	11:08
9	A. Those were mainly it.	11:09
10	Q. All right. And do you find in your practice	11:09
11	that sometimes clients are not candid or forthcoming	11:09
12	about the reason they're seeking treatment?	11:09
13	A. Sometimes.	11:09
14	Q. And did you find that to be the case with	11:09
15	Mr. Kelley?	11:09
16	A. No.	11:09
17	Q. Okay. Umm. So just very generally, when you	11:09
18	first met Mr. Kelley, what was your impression of him?	11:09
19	A. He was very quiet and a little bit guarded,	11:09
20	nervous.	11:09
21	Q. Anything that -- else that sticks out to you	11:10
22	from that first appointment as we stand here today?	11:10
23	A. No, that's mainly it. He was just very	11:10
24	guarded, very hesitant.	11:10
25	Q. Did that change during the course of therapy?	11:10

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1	A. Slowly he became less guarded.	11:10
2	Q. Did he become less quiet, I guess, more	11:10
3	talkative?	11:10
4	A. A little bit at times.	11:10
5	Q. What about nervous? Did he seem less nervous	11:10
6	later on?	11:10
7	A. That was pretty consistent [laughed].	11:10
8	Q. Did you have an understanding of why he was so	11:11
9	nervous?	11:11
10	A. No.	11:11
11	Q. And at this point in time was there any --	11:11
12	ever any reason to believe that mister -- Did Mr. Kelley	11:11
13	in any way seem any -- any different than a typical	11:11
14	client that might walk into your office?	11:11
15	A. No.	11:11
16	Q. And during any -- any of the time -- During	11:11
17	any of the times that you treated Mr. Kelley, did he	11:11
18	ever seem like anyone other than a typical client that	11:11
19	you would treat in your office?	11:12
20	A. No.	11:12
21	Q. I'm looking at -- I'm going to jump down right	11:12
22	now and go to "Medical History," and it says there, it	11:12
23	looks like, "Acid Reflux." And during this first	11:12
24	meeting, did he bring any other medical problems to your	11:12
25	attention?	11:12

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1 A. No. 11:12

2 Q. And did he bring any medical problems to your 11:12

3 attention at any time during the course of -- of 11:12

4 therapy? 11:12

5 A. Not that I can recall. 11:12

6 Q. Did he ever mention anything about having 11:12

7 chronic pain in his neck? 11:13

8 A. No. 11:13

9 Q. Did he ever mention a motorcycle accident 11:13

10 where he had gotten injured? 11:13

11 A. No. 11:13

12 Q. And at this first meeting do you recall if 11:13

13 Mr. Kelley told you that he was taking any medications? 11:13

14 A. At that time he said he had antipsychotics 11:13

15 from the Air Force at one point. 11:13

16 Q. And -- But that was -- that was in the past -- 11:13

17 A. Right. 11:13

18 Q. -- when -- 11:13

19 A. That was in the past, and he currently wasn't 11:13

20 on anything. 11:13

21 Q. And other than the history of antipsychotics 11:14

22 with the Air Force, did he mention any other medications 11:14

23 he had been prescribed at any time? 11:14

24 A. Not at that time. 11:14

25 Q. And did he at a later time? 11:14

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1	A. Later times he shared that he had tried, umm,	11:14
2	Xanax and Klonopin for anxiety.	11:14
3	Q. And other than the Xanax, Klonopin, and the	11:14
4	antipsychotics, did he mention any other medicines he	11:14
5	had taken --	11:14
6	A. No.	11:14
7	Q. -- umm, to you at any time?	11:14
8	A. No.	11:14
9	Q. With regard to the history of antipsychotics,	11:14
10	did he tell you which medications he had been prescribed	11:14
11	specifically?	11:15
12	A. No, he did not specify.	11:15
13	Q. And did he say who prescribed them to him?	11:15
14	A. No, not specifically; just that it was during	11:15
15	the time in the Air Force.	11:15
16	Q. Okay. With respect to the Xanax and Klonopin,	11:15
17	did he ever tell you who had prescribed those	11:15
18	medications for him?	11:15
19	A. No.	11:15
20	Q. At the time you were treating him, did	11:15
21	Mr. Kelley have a primary doctor?	11:15
22	A. I don't recall. I want to say no, but I don't	11:15
23	recall.	11:15
24	Q. Understood.	11:15
25	Do you recall at any time during the	11:16

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1 treatment of Mr. Kelley him providing you with any names  
 2 of medical providers he had seen over the years? 11:16

3 A. No. 11:16

4 Q. And did he ever... Sorry. 11:16

5 Re -- Returning to the history of 11:16  
 6 antipsychotics, did he tell you why he had been 11:16  
 7 prescribed that type of medi -- medicine? 11:16

8 A. No. 11:16

9 Q. At that first meeting did he describe any 11:16  
 10 behavior that he believed to be consistent with 11:16  
 11 psychosis? 11:16

12 A. No. 11:16

13 Q. Given the lack of history of psychosis but the 11:17  
 14 prescription of antipsychotic medicine, is that 11:17  
 15 something that concerned you? 11:17

16 A. No. 11:17

17 Q. And why is that? 11:17

18 A. Well, I mean, he was under somebody else's 11:17  
 19 treatment, and he wasn't very forthcoming with that 11:17  
 20 whole time period, so -- and then it was in the past, so 11:17  
 21 it didn't pertain to the now. 11:17

22 Q. Understandable. 11:17

23 So you felt -- and correct me if I'm 11:17  
 24 wrong, but you felt that he might have not been 11:17  
 25 providing all of the details of his medication history? 11:17

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1	Would that be fair?	11:18
2	A. Yes. He was pretty guarded.	11:18
3	Q. And just generally did you have reason to	11:18
4	question whether he was providing you accurate	11:18
5	information with respect to other areas of questioning	11:18
6	as well?	11:18
7	A. Well, I mean, honestly, you never really know	11:18
8	if people are being honest with what they're saying.	11:18
9	You've just got to kind of roll with it.	11:18
10	Q. So you weren't attempting to, I guess, verify	11:18
11	at that first meeting whether his history was a hundred	11:18
12	percent complete; is that right?	11:18
13	A. That's what we did later on as you develop the	11:18
14	relationship.	11:18
15	Q. Understood.	11:18
16	So you felt building a rapport with	11:19
17	Mr. Kelley was -- was paramount during that first	11:19
18	meeting as well as getting important data and that	11:19
19	details could be filled in later? Is that fair?	11:19
20	A. Yes.	11:19
21	Q. And just so the record is clear, you -- you	11:19
22	have never prescribed medicine to anyone; correct?	11:19
23	A. Correct.	11:19
24	Q. Looking under "Substance Abuse History" --	11:19
25	A. Yeah.	11:19

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1	Q. -- if I'm reading it correctly, it says,	11:19
2	"smokes weed every day; alcohol," and -- and did I read	11:19
3	that right?	11:20
4	A. Yes [laughed].	11:20
5	Q. Okay. Umm. So it sounds like he was saying	11:20
6	he was using marijuana every day; is that right?	11:20
7	A. Yes.	11:20
8	Q. Was that concerning to you at the time?	11:20
9	A. No.	11:20
10	Q. And why is that?	11:20
11	A. Sometimes people will utilize marijuana to	11:20
12	self-medicate for anxiety, and it just didn't seem like	11:20
13	an extreme thing at the time.	11:20
14	Q. Understood.	11:20
15	Did Mr. Kelley tell you why he used	11:20
16	marijuana every day?	11:20
17	A. I don't recall.	11:20
18	Q. Did you have a belief at the time as to why he	11:21
19	was regularly using marijuana?	11:21
20	A. Not at the time, not at the initial session.	11:21
21	Q. Did you later just develop a belief as to why	11:21
22	he was using it?	11:21
23	A. Yes. I developed the belief that he was	11:21
24	self-medicating for -- to sleep and to manage the	11:21
25	anxiety, to calm down.	11:21

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1 Q. So in his context you -- you saw the use of  
 2 marijuana as primarily therapeutic? Is that fair?

3 A. Yes.

4 Q. Was the use of marijuana causing any problems  
 5 in his life?

6 A. Not that I can recall.

7 Q. In reference to alcohol, do you remember what  
 8 he said about -- about that?

9 A. Just that he would drink at times.

10 Q. Do you recall how much he would say he would  
 11 typically drink?

12 A. No, I don't.

13 Q. Sitting here today do you recall if his  
 14 recounting of alcohol use was more consistent with  
 15 social drinking rather than binge drinking?

16 A. It definitely wasn't social. I -- Well, he  
 17 drank by himself.

18 Q. And do you know if he drank to -- to get drunk  
 19 or to get a high?

20 A. To get drunk.

21 Q. And at the time did you see it as particularly  
 22 problematic?

23 A. No, because it wasn't excessive every day from  
 24 what I was informed.

25 Q. Understood.

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1	And during the time that you saw	11:23
2	Mr. Kelley, did his alcohol -- his self-reported alcohol	11:23
3	use ever change?	11:23
4	A. No.	11:23
5	Q. And during your treatment of Mr. Kelley, did	11:23
6	you ever come to suspect he had a problem with alcohol	11:23
7	abuse?	11:23
8	A. No.	11:23
9	Q. At the time of the first intake session, would	11:24
10	you have also asked about the use of other substances?	11:24
11	A. Yes.	11:24
12	Q. And -- And if Mr. Kelley had reported using	11:24
13	other illegal drugs or substances, would you have	11:24
14	written that down?	11:24
15	A. Yes.	11:24
16	Q. And did you feel at the time he was being	11:24
17	honest about his use of alcohol and -- and substances?	11:24
18	A. Yes, as far as I knew.	11:24
19	Q. Did you ever at any time have reason to doubt	11:24
20	that he was being honest to you about his use of	11:24
21	substances?	11:24
22	A. No.	11:24
23	Q. Were you concerned about any of his	11:24
24	personality traits or characteristics predisposing him	11:25
25	to substance abuse?	11:25

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1 Q. Other than the -- what we talked about, the 11:53  
 2 unfairness he felt in the financial treatment of his 11:53  
 3 sisters versus him, did he ever talk about any other 11:53  
 4 issues or grievances with his sisters? 11:53

5 A. No. 11:53

6 Q. The very last statement under "Social 11:53  
 7 History," it says, "History of Air Force." And I think 11:53  
 8 you said he -- he talked very little about the 11:53  
 9 Air Force? 11:53

10 A. Right. 11:53

11 Q. Well, what little did he tell you? 11:53

12 A. Just that he was in it and he wa -- wasn't in 11:53  
 13 it anymore. 11:53

14 Q. Did he ever talk about his discharge or the -- 11:54  
 15 the nature of his discharge from the Air Force? 11:54

16 A. No. 11:54

17 Q. Did he ever talk about spending time in prison 11:54  
 18 while with the Air Force? 11:54

19 A. No. 11:54

20 Q. And during that first meeting did he talk 11:54  
 21 about, umm, having any -- any friends? 11:54

22 A. No. 11:54

23 Q. And did he at a later time? 11:54

24 A. When he came back the one time in '17, he had 11:54  
 25 more friends. 11:54

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1	Q. So you said "he had more friends"?	11:54
2	A. Uh-huh.	11:54
3	MR. MYERS: Is that a "yes"?	11:55
4	THE WITNESS: I guess.	11:55
5	MR. MYERS: No. You have to say "yes."	11:55
6	You said --	11:55
7	THE WITNESS: Yes.	11:55
8	MR. FURMAN: -- "Uh-huh."	11:55
9	THE WITNESS: I'm sorry [laughed].	11:55
10	MR. FURMAN: [Laughed]. Thank you.	11:55
11	Q. (BY MR. FURMAN) Do you know if he had any	11:55
12	friends during this time of the first meeting?	11:55
13	A. Not that I was informed of, no.	11:55
14	Q. And -- And up until that last meeting in 2017,	11:55
15	and any -- any time before then, did he inform you of	11:55
16	having any -- any friends?	11:55
17	A. No.	11:55
18	Q. Was that concerning to you at all?	11:55
19	A. Yes, but it made sense because he was guarded.	11:55
20	Q. I -- Other than him being guarded, do you have	11:55
21	any -- any other reason to believe that he might have	11:55
22	had issues making friends?	11:56
23	A. Because he was bullied and he had anxiety.	11:56
24	Those people are less likely to trust other people to be	11:56
25	friends with because they don't want to get hurt again.	11:56

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1 Q. That's understandable.

11:56

2 Any other reason with Mr. Kelley you  
3 thought he might have had issues making friends?

11:56

4 A. No.

11:56

5 Q. And just generally with respect to this form  
6 here, umm, all the information on here is provided by  
7 the -- I guess -- well, except for a diagnosis, but this  
8 is based off just the interview with the client?

11:56

11:56

11:57

9 A. Yes.

11:57

10 Q. In Mr. Kelley's case did you review any  
11 medical records or consult with anyone, umm, in  
12 formulating his diagnosis or treatment?

11:57

11:57

11:57

13 A. No.

11:57

14 Q. Is that something you would typically do?

11:57

15 A. No.

11:57

16 Q. Okay. I'd like to look at, on the same form,  
17 under "Symptoms," and -- and just -- just so I'm clear,  
18 are these symptoms that the patient's reporting or  
19 things you're observing or both or what is this  
20 referring to?

11:57

11:57

11:57

11:57

11:57

21 A. Kind of those key words that he would say. So  
22 it's -- it's not -- It's things he said.

11:57

11:57

23 Q. Okay. And -- And it says, "sleeps poorly."  
24 Do you recall what he said about his sleep?

11:58

11:58

25 A. No, I don't recall.

11:58

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1 Q. Do you recall from later sessions some of the  
 2 sleeping difficulties he might have described to you?

3 A. No.

4 Q. What about nightmares? Do you recall anything  
 5 about that?

6 A. No, I believe that was not mentioned again.

7 Q. And during that first meeting did he provide  
 8 any details on the nightmares?

9 A. No.

10 Q. Next you have, "paranoid." Is -- And so this  
 11 is something he's reporting to you?

12 A. Yes.

13 Q. He -- He's saying he's paranoid?

14 A. Yes.

15 Q. So, yes?

16 A. Yes.

17 Q. Okay. Is that something a person who's  
 18 paranoid would typically say?

19 A. Sometimes.

20 Q. What about in your experience?

21 A. Sometimes.

22 Q. And was his -- His being paranoid or reporting  
 23 himself to be paranoid, was that consistent with your  
 24 impression of him?

25 A. It correlated to the anxiety, yes.

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1 Q. Did he provide any examples of being paranoid  
 2 in that first session?

3 A. No.

4 Q. What about at a later time?

5 A. I don't recall.

6 Q. Did he exhibit any characteristics consistent  
 7 with someone who was paranoid when you saw him in  
 8 session?

9 A. Yes.

10 Q. What were some of those?

11 A. The being guarded and kind of passive with his  
 12 words, hesitant.

13 Q. When you say "passive with his words," what do  
 14 you mean by that?

15 A. Kind of gauging who I was and getting a feel  
 16 for if he could talk to me, so kind of saying a little  
 17 bit of something and seeing how I would react to it.

18 Q. Did it sound like he was reticent to speak his  
 19 mind?

20 A. Yeah. Yes.

21 Q. And is paranoia something in a client you'd be  
 22 concerned about?

23 A. It depends on how severe it is.

24 Q. How severe do you think Mr. Kelley's was at  
 25 this time?

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1	A. Not something alarming.	12:01
2	Q. So his level of paranoia wasn't something that	12:01
3	was alarming to you?	12:01
4	A. Not at the time, no.	12:01
5	MR. SCHREIBER: Objection. Asked and	12:01
6	answered.	12:01
7	Q. (BY MR. FURMAN) At any time did his paranoia	12:01
8	become alarming to you?	12:02
9	A. When he found out his wife cheated on him.	12:02
10	Q. And that's during a later session?	12:02
11	A. Yes.	12:02
12	Q. Okay. I -- I have a -- treatment notes here.	12:02
13	We can talk about that a little bit more, umm, when we	12:02
14	get there, if that's okay.	12:02
15	When he presented to you this first time,	12:02
16	did he want to work with you on being less paranoid?	12:02
17	A. No.	12:02
18	Q. Was it something you were trying to treat?	12:02
19	A. No.	12:02
20	Q. Can paranoia be consistent with a more -- or	12:02
21	with a severe psychiatric diagnosis?	12:02
22	A. Potentially.	12:02
23	Q. And did you have any concerns here that his	12:03
24	level of paranoia was consistent with a more severe	12:03
25	psychiatric diagnosis?	12:03

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1	A. No.	12:03
2	Q. And just to make sure I'm clear, when I --	12:03
3	when I said "severe psychiatric diagnosis," what does	12:03
4	that mean to you?	12:03
5	A. Like schizophrenia or something along those	12:03
6	lines.	12:03
7	Q. But you were more -- You were -- were not	12:03
8	worried about his paranoia being, like I said, a	12:03
9	psychotic level at this time?	12:03
10	A. Correct.	12:03
11	Q. Did you ever have concerns that his paranoia	12:03
12	reached a psychotic level?	12:03
13	A. No.	12:03
14	Q. Next under "Symptoms" you -- you wrote,	12:04
15	"stressed." Do you recall what he was stressed about?	12:04
16	A. Finances.	12:04
17	Q. Isn't everyone [laughed]?	12:04
18	A. [Laughed].	12:04
19	MR. SCHREIBER: Objection.	12:04
20	Q. (BY MR. FURMAN) A --	12:04
21	MR. SCHREIBER: Sidebar.	12:04
22	Q. (BY MR. FURMAN) And do you recall or do you	12:04
23	recount any other stressors at this time?	12:04
24	A. That was predominantly his stressor; so, no.	12:04
25	Q. And what particularly was his financial	12:04

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1	A. No [laughed].	12:08
2	Q. Did you tell him that?	12:08
3	A. Yes.	12:08
4	Q. Was he receptive of that?	12:08
5	A. No.	12:08
6	Q. [Laughed].	12:08
7	A. [Laughed].	12:08
8	Q. I understand.	12:08
9	Next on the "Symptoms" list, you have,	
10	"numb." Umm. What is that referring to?	
11	A. He said sometimes he felt numb.	12:08
12	Q. And what kind of, I guess, mental health	12:08
13	issues or psychotic diagnoses can that be consistent	12:08
14	with?	12:08
15	A. Depression. Depression can make somebody feel	12:08
16	empty.	12:08
17	Q. Anything else?	12:09
18	A. No, that's predominantly where we went with	12:09
19	that, was it was just a very sad, empty place, numb.	12:09
20	Q. So in Mr. Kelley's circumstances, you felt the	12:09
21	numbness was related to his being depressed? Is that	12:09
22	fair?	12:09
23	A. Yes.	12:09
24	Q. Were you ever concerned that the numbness was	12:09
25	a sign of a more significant mental health issue like	12:09

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1	psychosis or disassociation?	12:09
2	A. No.	12:09
3	Q. And then the next sentence, "depressed," so	12:09
4	we've -- we kind of got into that. Other than being	12:09
5	numb, what else made you -- or what else he said was	12:09
6	consistent with depression?	12:10
7	A. He said he was depressed.	12:10
8	Q. Was that consistent with your observation?	12:10
9	A. Yes.	12:10
10	Q. What did you observe with him that was	12:10
11	indicative of depression?	12:10
12	A. Just the -- the thing -- the culmination of	12:10
13	the things he was saying sounded like a depressed person	12:10
14	based off of the diagnostic manual.	12:10
15	Q. When we refer to "diagnostic manual," is that	12:10
16	the -- the DSM?	12:10
17	A. Yes.	12:10
18	Q. Did he talk about ever being on any medication	12:10
19	to treat depression?	12:10
20	A. No. He had only talked about the	12:10
21	antipsychotics and then later the anxiety medicines.	12:10
22	Q. Did you feel that antidepressant medication	12:11
23	might have been helpful in his case?	12:11
24	A. You know, we never talked about it.	12:11
25	Q. That -- That's fair.	12:11

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1	And earlier we talked about the -- the	12:11
2	use of marijuana. Umm. At this time was he doing	12:11
3	anything else to treat his depression?	12:11
4	A. No.	12:11
5	Q. And did you have any sense at this time as to	12:11
6	what was causing his [indiscernible]?	12:11
7	MS. GREEN: His what? Causing his what?	12:12
8	MR. FURMAN: Sorry.	12:12
9	Q. (BY MR. FURMAN) Causing his depression?	12:12
10	A. Umm. No. I mean, probably -- No, not at the	12:12
11	time. It was -- It was very much an initial session.	12:12
12	Q. Understood.	12:12
13	But what about later? Did you later have	12:12
14	a sense of what had been -- might have been causing his	12:12
15	depression?	12:12
16	A. His stress; the pressure he put on himself.	12:12
17	Q. Anything else?	12:12
18	A. That's what I gathered. No, not anything	12:12
19	else.	12:12
20	Q. Thank you.	12:12
21	And -- And, lastly, you have, "don't	12:12
22	care," in quotes. Does quotes mean this is a statement	12:13
23	he made?	12:13
24	A. Yes.	12:13
25	Q. And to you what was that statement indicative	12:13

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1	of?	12:13
2	A. It correlates to the depressed state and the	12:13
3	numbness. Sometimes people just say they don't care.	12:13
4	Q. So it sounds like he was, I guess, apathetic	12:13
5	during that meeting?	12:13
6	A. Yes.	12:13
7	Q. And other than the symptoms here, do you	12:13
8	recall if he brought to your attention any other	12:13
9	symptoms during that first meeting?	12:13
10	A. No, I don't recall.	12:13
11	Q. And if other symptoms were important, would	12:14
12	you have written them down?	12:14
13	A. Absolutely.	12:14
14	Q. And during the course of Mr. Kelley's	12:14
15	treatment were there other -- were there significant	12:14
16	symptoms -- new significant symptoms that came about?	12:14
17	A. No; just more -- more of what was already	12:14
18	there, more of the anxiety, the stress.	12:14
19	Q. So the latest symptoms were just consistent	12:14
20	with a different level of the symptoms described here?	12:14
21	Is that fair?	12:14
22	A. Yes.	12:14
23	Q. I'm going down to -- more towards the bottom	12:14
24	of the page, where it says "Danger to Self/Others." Do	12:14
25	you see that?	12:15

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1	A. Yeah.	12:15
2	Q. And it says, "Passive. SI." What does that	12:15
3	mean?	12:15
4	A. Suicidal ideations.	12:15
5	Q. And could you just ec -- Could you explain	12:15
6	what "passive" sudis -- "suicidal ideation" is?	12:15
7	A. That is sometimes the person thinks of wanting	12:15
8	to die or kill themselves or just not be here, but they	12:15
9	don't have a plan or intent.	12:15
10	Q. Thank you.	12:15
11	Do you recall any examples that he gave	12:15
12	during that first session of passive suicidal ideation?	12:15
13	A. No.	12:15
14	Q. Was that something that was concerning to you?	12:15
15	A. Not at the time because it correlates with	12:15
16	depression and there was no intent or plan.	12:15
17	Q. So to determine whether someone is suicidal in	12:16
18	addition to ideation, you looked at -- you -- you	12:16
19	typically look at intent and plan as well; is that	12:16
20	right?	12:16
21	A. Intent, plan, or history, yes, that's right.	12:16
22	Q. Did he disclose any history of suicidal	12:16
23	attempts or suicidal ideation in the past?	12:16
24	A. No. I would have written it down.	12:16
25	Q. In other times did -- during your treatment of	12:16

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1	him, did he ever express passive suicidal ideation?	12:16
2	A. I don't recall.	12:16
3	Q. And do you recall if his suicidality behaviors	12:16
4	ever increased to include intent and/or plan?	12:16
5	A. No.	12:17
6	Q. So, no -- no, they did not?	12:17
7	A. No, they did not. They did not increase that	12:17
8	I was aware of.	12:17
9	Q. Thank you.	12:17
10	So is it fair that at the time of this	12:17
11	appointment, you had no reason to believe he was going	12:17
12	to hurt himself?	12:17
13	A. Correct.	12:17
14	Q. And at this appointment did you have any	12:17
15	reason to believe that he would hurt anyone else?	12:17
16	A. No.	12:17
17	Q. At any time during the course of your	12:17
18	treatment with Mr. Kelley, did you have reason to	12:17
19	believe that he would hurt someone else?	12:17
20	A. No.	12:17
21	Q. Was Mr. Kelley someone you considered in any	12:17
22	regard a risk for violence during your treatment of him?	12:17
23	A. No.	12:17
24	Q. Given the potential of certain persons with	12:18
25	mental health issues to harm themselves or others, umm,	12:18

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1	do you routinely ask clients if they have weapons or	12:18
2	firearms in the home?	12:18
3	A. No.	12:18
4	Q. Is that something you ever ask of clients?	12:18
5	A. If they have expressed that they have intent	12:18
6	or a plan, then that's the next question, but not	12:18
7	otherwise.	12:18
8	Q. And with Mr. Kelley, did you ever ask him if	12:18
9	he had firearms in the home?	12:18
10	A. No.	12:18
11	Q. Did you ever ask him if he had access to	12:18
12	firearms?	12:18
13	A. I didn't have to because in the first session,	12:18
14	he mentioned he liked hunting hogs and deer, so I	12:18
15	assumed he had hunting stuff for that.	12:18
16	Q. [Laughed]. That's a fair point. I guess...	12:19
17	So when he was referring to hunting hogs	12:19
18	and deer, umm, I guess he wasn't hunting with a bow and	12:19
19	arrow; is that right?	12:19
20	A. Correct. I guess I just assumed it was a gun.	12:19
21	I don't know anything about hunting.	12:19
22	Q. When he described the hunting, did he describe	12:19
23	any specifics of -- of the firearms, what type or whose	12:19
24	they were, any of those details?	12:19
25	A. No.	12:19

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1	MR. SCHREIBER: Objection. Assumes facts	12:19
2	not in evidence.	12:19
3	A. No.	12:19
4	Q. (BY MR. FURMAN) And before we get to that	12:19
5	first treatment, I just want to, umm, focus on the --	12:20
6	the diagnosis you gave Mr. Kelley, umm, in this form.	12:20
7	And -- And just for background information is this five	12:20
8	axes here. So what are those five axes related to?	12:20
9	A. Umm. It's a different part of the diagnosis	12:20
10	to kind of break down where is the person at. Like	12:20
11	Axis I is the main diagnosis. Axen -- Axis II is for	12:20
12	personality diagnoses. Axis III is for medical issues	12:20
13	or -- how do you say -- diagnoses. Axis IV are the	12:20
14	stressors or the -- kind of the heavy hitters of why	12:20
15	they would be in therapy, like the things that are	12:20
16	wrong. And Axis V is the severity of the issue or the	12:20
17	diagnosis.	12:21
18	Q. That's helpful. Thank you.	12:21
19	Under Axis V, it says "Current" and "GAF	12:21
20	50." I guess, first, what is "GAF"?	12:21
21	A. Oh, my goodness [laughed].	12:21
22	Q. [Laughed].	12:21
23	A. I don't remember what it -- It's something	12:21
24	functioning.	12:21
25	Q. Oh, if you don't remember what it -- what	12:21

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1	it -- What does it generally mean? What does it entail?	12:21
2	What -- What does the number "50" mean?	12:21
3	A. It's the severity of how it's affecting them.	12:21
4	Like, "50" means it's pretty moderate. But it's -- The	12:21
5	higher you go, the healthier the individual. The lower	12:21
6	you go, the more the severe the issue.	12:21
7	Q. That's what I needed. Thank you.	12:21
8	So when you're saying "50," you said that	12:21
9	was moderate severity of his symptoms?	12:21
10	A. Right. Yes.	12:21
11	Q. Thanks.	12:21
12	Looking at Axis II, you say "defer," so	12:22
13	what does "defer" mean?	12:22
14	A. Defer for the -- Well, for Axis III -- I'm not	12:22
15	a medical doctor, so I don't really choose to write	12:22
16	anything there. So I defer to their medical doctor.	12:22
17	And Axis II, I didn't see at the time any kind of	12:22
18	personality disorders, so I deferred to nothing was	12:22
19	there [laughed].	12:22
20	Q. Understood.	12:22
21	Umm. At a later time, umm, did you see	12:22
22	any indications that Mr. Kelley might have behavior	12:22
23	consistent -- or symptoms consistent with a personality	12:22
24	disorder?	12:22
25	A. No.	12:22

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1 Q. Can paranoia be consistent with a personality  
 2 disorder? 12:22

3 A. I think it can be a trait of several  
 4 personality disorders, but, you know, they've got  
 5 several traits. 12:23

6 Q. So you felt like the paranoia alone wasn't  
 7 sufficient to diagnose a personality disorder? Is that  
 8 fair? 12:23

9 A. That's fair. 12:23

10 Q. And at -- at other times with -- with other  
 11 clients, have you had the opportunity to diagnose a  
 12 personality disorder? 12:23

13 A. Yes. 12:23

14 Q. Thank you. 12:23

15 Looking at Axis I, umm, it looks like it  
 16 says "F31.9"; is that right? 12:23

17 A. Yes. 12:23

18 Q. And then it says, it looks like, "Bipolar I."  
 19 And then could you read the rest to me? I think it's an  
 20 abbreviation. I can't quite make it out. 12:24

21 A. Sure. "Bipolar 1 disorder, current episode  
 22 unspecified." 12:24

23 Q. And what's that mean in laymen's terms? 12:24

24 A. Umm. That he was definitely in Bipolar I  
 25 disorder, but the current experience he was having, the 12:24

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1	current episode, if you will, was -- I couldn't decipher	12:24
2	if it was mixed or if he was manic or if he was	12:24
3	predominantly depressed. Figure that out as a -- at a	12:24
4	later date when you get to know them better.	12:24
5	Q. Understood.	12:24
6	But after that first meeting, you were	12:24
7	convinced he had Bipolar I disorder of some type?	12:24
8	A. Yes.	12:24
9	Q. And what led you to that conclusion?	12:24
10	A. Just the -- the combination between the very	12:24
11	heightened mood and then the very depressive moments	12:25
12	that he would have just fit with the diagno -- the	12:25
13	symptoms [laughed].	12:25
14	Q. Understood.	12:25
15	When you say "heightened mood," could you	12:25
16	explain a little more what you mean by that?	12:25
17	A. Like the anxiety and the paranoia and, umm,	12:25
18	other symptoms I'm guessing I saw at the time.	12:25
19	Q. Sure.	12:25
20	Do you recall seeing any other symptoms	12:25
21	of Mr. Kelley that were indicative of mania?	12:25
22	A. I don't recall at this time.	12:25
23	Q. Okay. And we talked about the depression	12:25
24	already. At any of the time during your treatment of	12:25
25	Mr. Kelley did you revisit that diagnosis or see a	12:26

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1	need -- see a need to revisit it?	12:26
2	A. I don't recall.	12:26
3	Q. Do you recall if you needed to make a	12:26
4	differential diagnosis during this first meeting,	12:26
5	differentiating bipolar from another type of disorder?	12:26
6	A. No.	12:26
7	Q. Is bipolar disorder frequently treated with	12:26
8	medication?	12:27
9	A. Yes, it can be.	12:27
10	Q. And I'm guessing from what we said earlier,	12:27
11	umm, it sounded like he wasn't on any medication for	12:27
12	bipolar at this time; is that right?	12:27
13	A. Correct.	12:27
14	Q. Was that concerning to you at all?	12:27
15	A. Not at the time.	12:27
16	Q. Was it at a later time?	12:27
17	A. No.	12:27
18	Q. And during the visit or any time did	12:27
19	Mr. Kelley relay to you that he had been diagnosed with	12:27
20	bipolar disorder at any time in the past?	12:27
21	A. No.	12:27
22	Q. As part of your caseload overall do you	12:28
23	regularly treat patients with bipolar disorder?	12:28
24	A. Yes.	12:28
25	Q. And can bipolar disorder clients have	12:28

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1	instances where they lose touch with reality or	12:28
2	psychotic breaks?	12:28
3	A. Yes.	12:28
4	Q. I think we covered this. But you never saw	12:28
5	anything like that with Mr. Kelley?	12:28
6	A. No, I did not.	12:28
7	Q. And can bi -- clients with bipolar disorder	12:29
8	sometimes engage in -- in risky behavior?	12:29
9	A. Yes.	12:29
10	Q. At this time did you have any concerns about	12:29
11	Mr. Kelley engaging in risky behavior?	12:29
12	A. No.	12:29
13	Q. Did you at a later time?	12:29
14	A. No.	12:29
15	Q. Now, at any point in time did you have	12:30
16	questions about whether Mr. Kelley needed to be referred	12:30
17	to a medical doctor to treat his bipolar?	12:30
18	A. Umm. If you see later in the notes, I wrote a	12:30
19	letter for him to go to a doctor for anxiety medicines	12:30
20	but not bipolar.	12:30
21	Q. Okay. Thank you for pointing that out. And	12:30
22	we'll get to that in one minute.	12:30
23	THE WITNESS: Oh, my -- my -- Sorry.	12:30
24	(Witness indicating cell phone.	12:30
25	Q. (BY MR. FURMAN) At any time during -- during	12:30

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1	anything else you saw as an obstacle to potentially	12:32
2	working with and treating Mr. Kelley at this time?	12:32
3	A. No.	12:32
4	Q. Umm. At this appointment or sometime after	12:32
5	did you develop any sort of treatment plan for	12:32
6	Mr. Kelley?	12:32
7	A. Not specifically.	12:32
8	Q. Did you work with him to develop treatment	12:32
9	goals?	12:32
10	A. Yes.	12:32
11	Q. Do you recall what those goals were?	12:32
12	A. To learn coping mechanisms for the stress,	12:32
13	basically.	12:32
14	Q. Anything else?	12:33
15	A. Not that I can recall.	12:33
16	Q. Thank you.	12:33
17	I think that's all the questions I have	12:33
18	on -- on that form. Umm.	12:33
19	Before we review the treatment notes,	12:33
20	just -- And if you need to look back on the calendar we	12:33
21	looked at earlier, it's the seventh page of the	12:33
22	documents, umm, what we've marked as Marlowe 7, and --	12:33
23	But looking at it generally, it looks like, for the most	12:33
24	part, your treatment of Mr. Kelley, so during at least	12:33
25	the summer of 2016, was twice a week? Does that sound	12:33

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1	right?	12:33
2	A. Yes.	12:33
3	Q. Is that typical for your clients?	12:33
4	A. Some.	12:33
5	Q. Is that a number that you decided on with	12:34
6	Mr. Kelley?	12:34
7	A. Yes.	12:34
8	Q. And is that a, umm -- Was the amount of	12:34
9	treatment sessions per week any way indicative of the	12:34
10	level of his problems?	12:34
11	A. No.	12:34
12	Q. But, obviously, you felt that coming in twice	12:34
13	a week could be beneficial to him?	12:34
14	A. Yes.	12:34
15	Q. And for setting appointments did you have a	12:34
16	preset schedule with him or did he just schedule at the	12:35
17	end of every session?	12:35
18	A. I honestly don't recall [laughed].	12:35
19	Q. It's not a problem. I don't -- I don't think	12:35
20	it's the most critical question, so...	12:35
21	And during that first treat -- visit or	12:35
22	at any other time you met with Mr. Kelley, did he	12:35
23	mention having any sort of prior mental health	12:35
24	treatment?	12:35
25	A. No.	12:35

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1 back?

12:39

2 A. Not as far as I knew, no.

12:39

3 Q. Understood.

12:39

4 Now, you might have said this, but I  
5 think you felt like he was making good progress in  
6 therapy during your treatment?

12:39

12:39

7 A. Yes.

12:40

8 Q. As a therapist did you ever assign Mr. Kelley  
9 what they call "homework" or assign him work outside of  
10 the session for his treatment?

12:40

12:40

11 A. Yes.

12:40

12 Q. Do you recall some examples of that?

12:40

13 A. Oh, golly. No [laughed]. I'm sorry. I don't  
14 recall.

12:40

12:40

15 Q. Understood.

12:40

16 Do you recall if Mr. Kelley was dutiful  
17 about doing his homework?

12:40

12:40

18 A. Yes.

12:40

19 Q. He was good about doing it?

12:40

20 A. Yes.

12:40

21 Q. Okay. I'd like to go through some of the

12:41

22 treatment notes. Umm. You know, I understand, again,

12:41

23 you might not remember everything, you know, about every

12:41

24 specific question, so I certainly understand that, but,

12:41

25 umm, I'd like to cover a few of them. So I'm going to

12:41

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1	turn first to -- We're going to go chronologically, so	12:41
2	that starts at the end of the documents you gave to us.	12:41
3	So I'm looking at here Marlowe 46, which is the note for	12:41
4	June 6th as well as June 9th. Are you there?	12:41
5	A. Yes.	12:41
6	Q. Thanks.	12:41
7	Again, is this a form that's provided to	12:41
8	you by the counseling center for use in your practice?	12:41
9	A. Yes.	12:41
10	Q. Are you required to use this form?	12:41
11	A. No.	12:41
12	Q. And I'd like to just quickly generally talk	12:42
13	about the form before we get into some of the specifics	12:42
14	about what you notated for Mr. Kelley. So, umm, where	12:42
15	it says "MENTAL STATUS," what is that referring to	12:42
16	generally?	12:42
17	A. Like if they're orientated to time, place,	12:42
18	themselves, like if they know where they're at and	12:42
19	they're present, if you will.	12:42
20	Q. And then it looks like below that there's some	12:42
21	symptoms that a client might present with?	12:42
22	A. Yes.	12:42
23	Q. And then "THOUGHT CONTENT," what's that	12:42
24	referring to?	12:42
25	A. How they process their thoughts, if it's	12:42

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1	organized or unorganized, if they're jumping everywhere,	12:42
2	or if it's kind of like this dialogue where it's pretty	12:43
3	clear. And appro -- That's what "Appropriate" is.	12:43
4	Q. Okay. And then "SPEECH," what is that	12:43
5	referring to?	12:43
6	A. Like if they're -- How they're responding to	12:43
7	you, if they can enunciate clearly or if they're holding	12:43
8	back or if they're giving you one-word answers, how	12:43
9	they're talking to you.	12:43
10	Q. Okay. And -- And then "AFFECT," what is	12:43
11	"AFFECT"?	12:43
12	A. Their expressions, like if they're -- how --	12:43
13	how their face is moving, I guess. [Laughed]. If	12:43
14	they're happy, sad, flat; what they're presenting	12:43
15	mood-wise.	12:43
16	Q. Okay. And looking at the notes here, these	12:43
17	are all your handwriting?	12:44
18	A. Yeah.	12:44
19	Q. Are those your signatures --	12:44
20	A. Correct.	12:44
21	Q. -- on those notes?	12:44
22	A. Yes.	12:44
23	Q. And then just as a general practice, how long	12:44
24	after treatment sessions do you complete these notes?	12:44
25	A. Same day.	12:44

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1	Q. So you do it while it's still fresh in your --	12:44
2	in your mind?	12:44
3	A. Yes.	12:44
4	Q. And the level of detail in the notes here,	12:44
5	particularly the "SUMMARY" sec -- section, is that	12:44
6	consistent with the detail you use in other notes --	12:44
7	A. Yes.	12:44
8	Q. -- with other -- with other clients?	12:44
9	A. Yes, absolutely.	12:44
10	Q. And does anyone, insurance or anyone, review	12:45
11	these treatment notes?	12:45
12	A. No.	12:45
13	Q. So these notes are for just your benefit and	12:45
14	potentially for the benefit of any future treater?	12:45
15	A. Yes.	12:45
16	Q. All right. I'm looking at the -- the	12:45
17	June 6th, 2016, note, and I noticed you -- for -- under	12:45
18	"MENTAL STATUS," and -- and you marked certain symptoms,	12:45
19	like "Depressed," it looks like, "Withdrawn," "Fearful,"	12:45
20	"Tense," "Anxious," "Suspicious." Do you see that?	12:45
21	A. Yeah. Yes.	12:46
22	Q. So that means you observed those behaviors	12:46
23	during the session?	12:46
24	A. Yes.	12:46
25	Q. And that's consistent with what we were	12:46

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1	talking about earlier because this was the intake	12:46
2	session; correct?	12:46
3	A. Yes.	12:46
4	Q. It looks like here that the box next to	12:46
5	"Paranoid" was not marked. Do you know why?	12:46
6	A. Because I marked "Suspicious."	12:46
7	Q. So in your mind, putting down two versus one	12:46
8	was redundant?	12:46
9	A. Yes.	12:46
10	Q. Next to "SPEECH," it looks like you marked	12:46
11	"Impaired." Umm. What did you mean by that?	12:46
12	A. The difficulty of him talking and getting it	12:47
13	out.	12:47
14	Q. And did you feel that his impaired speech was	12:47
15	due to his guardedness or was there some other reason?	12:47
16	A. Being guarded and hesitant.	12:47
17	Q. Under "AFFECT," it looks like you marked	12:47
18	"Flat/Blunted." What does that mean?	12:47
19	A. Like if you look at someone's face and there's	12:47
20	just no expression, they're just --	12:47
21	(Witness made distinct sound.)	12:47
22	A. No expression.	12:47
23	Q. (BY MR. FURMAN) And that -- that's how he	12:47
24	presented to you?	12:47
25	A. Yes.	12:47

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1	Q. Did he ever smile in session?	12:47
2	A. I don't recall.	12:48
3	Q. Do you know if he ever -- Do you recall if he	12:48
4	ever cried in session or got emotional?	12:48
5	A. No, I don't recall.	12:48
6	Q. And we talked about several of these topics	12:48
7	already. Umm. I just -- I just want to touch briefly	12:48
8	on the hunting issue. It says -- looks like it says,	12:49
9	"Lives on family ranch," and then, "likes hunting hogs	12:49
10	and deer." Umm. What did -- What did he tell you about	12:49
11	that?	12:49
12	A. Just simply that is all I can recall him	12:49
13	saying.	12:49
14	Q. And did he do the hunting on his parents'	12:49
15	ranch?	12:49
16	A. Yes.	12:49
17	Q. Did he say the reason he was hunting, just	12:49
18	because he enjoyed it or some other reason?	12:49
19	A. I don't think he specified. I guess I assumed	12:49
20	because he enjoyed it.	12:49
21	Q. Did he ever express to you any enjoyment or	12:50
22	satisfaction in hurting or killing animals?	12:50
23	A. No.	12:50
24	Q. And other than this session, do you recall if	12:50
25	he talked about hunting and -- or using firearms at any	12:50

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1	other point during your treatment of him?	12:50
2	A. No.	12:50
3	Q. Looking at the treatment note at the bottom of	12:50
4	that page, the June 9th treatment note, it looks like	12:50
5	under "MENTAL STATUS," several of the same boxes are	12:51
6	still checked. Do you see that?	12:51
7	A. Yes.	12:51
8	Q. And do you have any specific rec --	12:51
9	recollection of that second appointment?	12:51
10	A. No.	12:51
11	Q. And we've already talked about some of this.	12:51
12	I won't repeat myself too much. But it looks like it	12:51
13	says, "Discussed financial concerns," and then it says,	12:51
14	"stress about working around people." With regards to	12:51
15	"stress about working around people," do you recall	12:52
16	anything he might have said?	12:52
17	A. No, I don't.	12:52
18	Q. And then below that, it looks like it says,	12:52
19	"Shared was in military '09 through '13." Did I read	12:52
20	that right?	12:52
21	A. Yes.	12:52
22	Q. And you said that's to say he -- he told you	12:52
23	about his service in the military and that was between	12:52
24	2009 and 2013? Does that sound right?	12:52
25	A. I hope that's what that means. It either	12:52

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1 means that or September 2013. He got out -- I'm pretty

12:52

2 sure '09 to '13 is what it means, that he served.

12:52

3 Q. And it says, "Discussed family relationship."

12:53

4 Do you recall specifically what was discussed during

12:53

5 that appointment?

12:53

6 A. No, I don't.

12:53

7 Q. In regards to the stress about working around

12:53

8 people, do you ever have a sense of whether Mr. Kelley

12:53

9 had problems or issues dealing with people?

12:53

10 A. Well, yeah, like the history of being bullied

12:53

11 and beat up and mistreated. That's probably why he was

12:53

12 guarded, and that doesn't fare well when you're around

12:53

13 other people.

12:53

14 Q. So you felt that bullying and guardedness were

12:53

15 making it hard for him to interact with others?

12:53

16 A. Yes.

12:53

17 Q. All right. We can turn to the next note

12:54

18 chronologically. So this is Marlowe 45 in notations.

12:54

19 And the -- the two notes, again, the one at the top is

12:54

20 June 14, 2016. Are you there?

12:54

21 A. Yes.

12:54

22 Q. And, again, the "MENTAL STATUS," it looks like

12:54

23 several of the same boxes are still checked from the

12:54

24 prior session. Do you see that?

12:54

25 A. Yes.

12:54

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1 know what that's referring to? 01:05

2 A. No, I don't recall. 01:05

3 Q. Do you recall at any point during your 01:06  
4 treatment with him him discussing having memory or 01:06  
5 recall issues? 01:066 A. I don't remember. [Laughed]. I don't 01:06  
7 remember memory issues. 01:068 Q. All right. We can go to the next page. So 01:06  
9 this is Marlowe 43 on your -- 01:0610 MR. SCHREIBER: Hold on a second. Do you 01:06  
11 mind taking a five-minute break for me? 01:06

12 MR. FURMAN: Yeah, that's fine with me. 01:06

13 MR. SCHREIBER: Thank you. I need to 01:06  
14 go -- 01:06

15 MR. FURMAN: Yeah. Off the record. 01:06

16 MS. WILLIS: Off the record at 1:05 p.m. 01:06

17 (Recess. 01:06

18 MS. WILLIS: We're on the record at 01:15  
19 1:14 p.m. 01:15

20 MR. FURMAN: Thank you. 01:15

21 Q. (BY MR. FURMAN) Mr. Marl -- Ms. Marlowe, we 01:15

22 went on a break. We had in front of you Marlowe 43, 01:15

23 which at the top says "July 1, 2016," a treatment note. 01:15

24 Are you there? 01:15

25 A. Yes. 01:15

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1 Q. All right. And looking under the summary for 01:15  
 2 that treatment note, you have, "Hard to focus," in 01:15  
 3 quotes. Umm. And do you recall why Mr. Kelley might 01:16  
 4 have said that? 01:16

5 A. No. 01:16

6 Q. Over the course of your treatment of him, did 01:16  
 7 he describe difficulties in focusing? 01:16

8 A. I don't recall. 01:16

9 Q. Well, was any ability -- or inability of him 01:16  
 10 to focus, was that ever something that was a concern for 01:16  
 11 you? 01:16

12 A. Umm. No. 01:16

13 Q. Okay. I'm going to turn to the note at the 01:16  
 14 bottom of the page, the July 5th, 2016, note. It looks 01:16  
 15 like several of these topics we've talked about before, 01:17  
 16 the history of bullying, and on the third or fourth line 01:17  
 17 there, umm, financial stressors. Umm. On the second to 01:17  
 18 the bottom line, it says, "History of wife cheating." 01:17

19 Do you see that? 01:17

20 A. Yes. 01:17

21 Q. Do you recall specifically what was talked 01:17  
 22 about at that time? 01:17

23 A. No, I do not. 01:17

24 Q. Was -- The cheating of his prior wife, is that 01:17  
 25 something that came up multiple times during his 01:17

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1	treatment with you?	01:17
2	A. Yes. It -- I mean, it appears so based off of	01:17
3	my notes. [Laughed].	01:17
4	Q. Well, was it something that was particularly	01:17
5	bothersome to him?	01:17
6	A. Yes.	01:18
7	Q. Do you know why it was bothersome to him?	01:18
8	A. Because he had suspicions of his current wife	01:18
9	cheating.	01:18
10	Q. And when did he make those suspicions first	01:18
11	known to you?	01:18
12	A. I don't recall the details.	01:18
13	Q. Do you recall what made him -- what behaviors	01:18
14	made him suspicious his current wife was cheating?	01:18
15	A. No, not at this time. I just know that our	01:18
16	last session in '16 was because of that.	01:18
17	Q. Okay. Umm. I'll get that -- to that in a	01:18
18	minute. Umm. That's helpful.	01:18
19	And at this time was there anything	01:19
20	unusual or concerning about his suspicions of his	01:19
21	current wife cheating?	01:19
22	A. No.	01:19
23	Q. So it sounds like you thought he had a -- some	01:19
24	reason to be suspicious versus -- I'm sure some of your	01:19
25	clients have paranoia or suspicions for no good reason.	01:19

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1	But it sounds like your understanding was that	01:19
2	Mr. Kelley had reason to potentially believe that, in	01:19
3	fact, his wife was cheating?	01:19
4	A. I don't recall.	01:19
5	Q. You could turn to the next page. This is	01:19
6	Marlowe 42 in my copy, the July 7th, 2016, treatment	01:19
7	note at top. And the -- the very first thing under	01:20
8	"SUMMARY," "Racing thoughts - can't sleep," do you	01:20
9	recall anything in more detail about that?	01:20
10	A. No.	01:20
11	Q. Do you recall during any time during the	01:20
12	course of your treatment of Mr. Kelley any specific	01:20
13	sleeping issues that he notified you of?	01:20
14	A. No, I think it was correlated to his stress.	01:20
15	Like if you perpetually think about something, it's --	01:20
16	it's going to keep you -- it can keep you from sleeping.	01:20
17	Q. So your understanding was he had a number of	01:20
18	worries, and because of those worries, he'd think about	01:20
19	them and therefore not be able to sleep? Is that fair?	01:21
20	A. Yes.	01:21
21	Q. And the third line, it looks like it says,	01:21
22	"Has," maybe, countered "a lot of bad people"; --	01:21
23	A. "Endured."	01:21
24	Q. -- is that -- that right?	01:21
25	A. "Endured."	01:21

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1	Turning to the July 19th treatment note,	01:25
2	it looks like the, I guess, third line from the bottom,	01:26
3	second filled in line, it says, "Medicine options." Is	01:26
4	that what that says?	01:26
5	A. Yes.	01:26
6	Q. And then is that like an arrow being drawn	01:26
7	from "Processed anxiety"?	01:26
8	A. Yes.	01:26
9	Q. Okay. And -- And what is the significance of	01:26
10	the arrow?	01:26
11	A. It correlated. The medicine options were for	01:26
12	the anxiety.	01:26
13	Q. So it seemed like during the session, you	01:26
14	discussed different medication options for anxiety with	01:26
15	him?	01:26
16	A. Just the possibility of utilizing medicine.	01:26
17	Q. And at -- at this time did you feel that	01:27
18	medicine would be an appropriate option for him?	01:27
19	A. Yes. Usually I start out by not saying	01:27
20	anything about medicine to see if coping is sufficient	01:27
21	on its own, but then if it's not and we need a little	01:27
22	extra, I refer them out to someone that can add medicine	01:27
23	plus treatment.	01:27
24	Q. And is that what you did here?	01:27
25	A. Yes.	01:27

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1	Q. All right. And then the next page in the	01:27
2	file, Marlowe 40, I think this is the letter that you	01:27
3	wrote, if you'd turn to there.	01:27
4	A. Yes. Sorry.	01:27
5	Q. And is that your letter?	01:27
6	A. Yes.	01:27
7	Q. And that's your -- your signature?	01:27
8	A. Yes.	01:27
9	Q. All right. Umm. Looking at the second line	01:28
10	of the lever -- letter, umm, you refer to	01:28
11	"psychoanalysis therapy." Do you know why you used that	01:28
12	term there?	01:28
13	A. Not at the time [laughed] because we were	01:28
14	just -- No.	01:28
15	Q. Now, do you -- do you have any idea why you	01:28
16	would have put that there?	01:28
17	A. No.	01:28
18	Q. Okay. And then the next sentence, it says,	01:28
19	"Devin has consistently expressed severe anxiety." Do	01:28
20	you see that?	01:28
21	A. Yes.	01:28
22	Q. And that -- that's based off your observation	01:28
23	of him?	01:28
24	A. Yes.	01:28
25	Can -- Can I say something? I know why I	01:29

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1	put "psychoanalysis." It just came to me.	01:29
2	Q. Oh, okay.	01:29
3	A. Because sometimes if you just write "therapy,"	01:29
4	people think physical therapy or other forms of therapy.	01:29
5	So --	01:29
6	Q. Oh [laughed].	01:29
7	A. -- I put that for like mental health therapy.	01:29
8	Q. That's smart. Okay. That makes sense. Thank	01:29
9	you. Yeah, if you need to correct a statement or amend	01:29
10	something like that, that's perfectly fine, so feel free	01:29
11	to do so.	01:29
12	And then the next sentence, "Devin has	01:29
13	expressed symptoms of the following," and you list out	01:29
14	some symptoms. So these are symptoms he's expressed to	01:29
15	you during the course of treatment?	01:29
16	A. Yes.	01:29
17	Q. And then going to the very end of the letter,	01:29
18	it says, "Devin reports that the medications that have	01:30
19	worked in the past included Klonopin and Xanax." Do you	01:30
20	see that?	01:30
21	A. Yes.	01:30
22	Q. And do you know when during the course of	01:30
23	treatment he informed you that he had, in fact, been on	01:30
24	those medications?	01:30
25	A. I don't recall specifically.	01:30

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1 Q. And did you -- At this time did you feel that 01:30  
 2 it would be appropriate for Mr. Kelley to be on those 01:30  
 3 medications? 01:30

4 A. Yes. 01:30

5 Q. And do those medications have potential for 01:30  
 6 abuse by some people? 01:30

7 A. I suppose for some. 01:30

8 Q. And did you have any concerns about Mr. Kelley 01:30  
 9 abusing those medications if he were to be prescribed 01:30  
 10 them? 01:30

11 A. No. 01:30

12 Q. Is this type of letter something that you 01:30  
 13 typically do when clients request medication? 01:30

14 A. Umm. Sometimes, if they feel like it would 01:31  
 15 help. 01:31

16 Q. Do you recall why you wrote the letter here? 01:31

17 A. He wasn't very good at expressing what was 01:31  
 18 wrong specifically symptom-wise, and so it was an aid 01:31  
 19 for when he went to the doctor to take it with him. 01:31

20 Q. And do you know if he ever went to the doctor 01:31  
 21 to -- to get help with anxiety? 01:31

22 A. I think in one of the next notes it talks 01:31  
 23 about him going to an MHMR facility. 01:31

24 Q. And do you recall whether they did, in fact, 01:31  
 25 prescribe him medication? 01:31

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1	A. I don't recall.	01:31
2	Q. Due to Mr. Kelley's reported use of marijuana	01:32
3	daily, did that present any concerns regarding, umm, at	01:32
4	least those medications like Klonopin and Xanax?	01:32
5	A. No.	01:32
6	Q. Did you ever believe that Mr. Kelley was	01:32
7	exaggerating his anxiety symptoms?	01:32
8	A. No.	01:32
9	Q. Okay. We can turn to the -- the next page.	01:32
10	This is back in treatment notes, and this is Marlowe 39	01:32
11	in my copy, the July 21, 20 -- 2016, note on top.	01:33
12	A. Okay. I'm there.	01:33
13	Q. Thank you.	01:33
14	And it looks like the first line, it	01:33
15	looks like, "Wife's, maybe, "grandfather died"?	01:33
16	A. Yes.	01:33
17	Q. Does it -- Okay. And then along -- the line	01:33
18	below that says, "Danielle," and then it says, "sad	01:33
19	and" -- I can't read what's after that. Would you mind	01:33
20	reading that to me?	01:33
21	A. "Sad and crying."	01:33
22	Q. "Sad and crying." And then it says,	01:33
23	"Danielle's family conflict." Umm. Do you know what	01:33
24	that's referring to?	01:33
25	A. No.	01:33

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1 Q. So the respect in this instance would have 01:35  
 2 been concerning his wife? 01:35

3 A. Yes. 01:35

4 Q. And then it looks like it said -- like it 01:35  
 5 says, "Wife mood," and then there's -- there's an arrow, 01:36  
 6 "real mad to real nice." Did I read that right? 01:36

7 A. Yes. 01:36

8 Q. Do you know what that's referring to? 01:36

9 A. Just the -- how tumultuous their relationship 01:36  
 10 would get with the fighting, that it could be really 01:36  
 11 good one minute, then really bad another. 01:36

12 Q. Was that concerning to you? 01:36

13 A. It was consistent with how things had been; so 01:36  
 14 not overly. 01:36

15 Q. During the time that you treated Mr. Kelley, 01:36  
 16 did you ever develop a sense through treatment about -- 01:36  
 17 about his wife, about who she is -- 01:36

18 A. Not mu -- 01:36

19 Q. -- about her personality? 01:36

20 A. Not much, I mean, other than his suspicions of 01:36  
 21 her cheating. I think he really wanted to work it out 01:37  
 22 with her and that's why he was in therapy. That was a 01:37  
 23 part of it. 01:37

24 Q. We can go ahead and turn to the next page. 01:37

25 This is Marlowe 38, a treatment note, July 28th, 2016, 01:37

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1 on top. Are you there?

01:37

2 A. Yes, sir. I'm sorry.

01:37

3 Q. No problem.

01:37

4 And here I'm looking at the "SUMMARY."

01:38

5 Umm. And this is what -- what you were referring to

01:38

6 previously. It says, "Discussed wife's sexual abuse

01:38

7 past." And do you recall anything specifically about

01:38

8 what Mr. Kelley said about her past?

01:38

9 A. Not specifically; just that he was very upset

01:38

10 that she had been hurt by her family in that way.

01:38

11 Q. Do you know why it was bothering him at this

01:38

12 particular time?

01:38

13 A. Because he endured abuse and bullying

01:38

14 throughout his life. You mean why specifically at that

01:38

15 time?

01:38

16 Q. Right. I guess -- Or what I'm looking at, at

01:38

17 this July 28th -- So I would suspect his wife would have

01:38

18 told him about any abuse sometime prior to that. So I

01:39

19 didn't know if it was a triggering event or event

01:39

20 particular to this time that made him want to talk about

01:39

21 his wife's past abuse.

01:39

22 A. No, I'm not sure specifically. Sometimes

01:39

23 stuff just comes up.

01:39

24 Q. Did he ever express violence or wanting to

01:39

25 commit violence that -- to people who had done this

01:39

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1	to -- to his wife?	01:39
2	A. No.	01:39
3	Q. And below that, it says, "Hard to	01:39
4	concentrate." Do you recall any -- anything	01:40
5	specifically about that?	01:40
6	A. No.	01:40
7	Q. Below that, it says, "Depression worse." Do	01:40
8	you recall specifically why it was worse?	01:40
9	A. No.	01:40
10	Q. Now, at the bottom there, you said that M --	01:40
11	"MHMR for medication." So that's the local clinic, I	01:40
12	think you were saying?	01:40
13	A. Right. If somebody has low to no income,	01:40
14	it's -- it's a resource for them in the community run by	01:40
15	the state.	01:40
16	Q. Thank you.	01:40
17	Okay. Let's look at the obvious second	01:40
18	treatment note. At the top, he says, "No more" -- or	01:40
19	you say, "No more anxiety or" -- "or racing thoughts."	01:41
20	Umm. Do you know why that was?	01:41
21	A. No.	01:41
22	Q. And it looks like it talks about some of the	01:41
23	issues that we've already talked about.	01:41
24	Do you recall if the reduction in anxiety	01:41
25	or racing thoughts was correlated with starting any	01:41

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1	medicine?	01:41
2	A. No, I don't recall specifically.	01:41
3	Q. You can go ahead and turn to the next page.	01:42
4	So this is my copy, Marlowe 37, the August 9th session	01:42
5	on top. Are you with me?	01:42
6	A. Yeah.	01:42
7	Q. Great.	01:42
8	Umm. Looking again at the, umm,	01:42
9	"SUMMARY," it looks like, umm, it says, "Danielle	01:42
10	pregnant," exclamation point?	01:42
11	A. Yes [laughed].	01:42
12	Q. [Laughed]. Umm. How did he react to his	01:42
13	wife's pregnancy?	01:42
14	A. He was -- That kind of revamped and fueled the	01:42
15	worry about the finances because babies are expensive.	01:42
16	Q. Was he otherwise happy about her pregnancy?	01:42
17	A. Yes.	01:43
18	Q. And then the treatment note at the bottom for	01:43
19	August 11, umm, again, it's talking about things I think	01:43
20	we've talked about. At the very bottom, it says, "Has	01:43
21	money right now." Do you know why he had money at that	01:43
22	time?	01:43
23	A. No, not specifically. Like I said, he -- his	01:43
24	money would ebb and flow; he would have it and then not	01:43
25	have it.	01:43

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1 your treatment with him?

01:56

2 A. Yes.

01:56

3 Q. And in looking back on your treatment today,  
4 is there anything you felt like you could have done any  
5 differently or would have done differently with his  
6 treatment?

01:56

7 A. No.

01:56

8 Q. All right. Well, let's turn to the -- the  
9 9/1/17 note. So this is Marlowe 34 in my copy.

01:56

10 A. Okay.

01:56

11 Q. So this looks to be about a year after the  
12 last time you saw him. Umm. Do you recall the  
13 circumstances and him reinitiating -- reinitiating  
14 treatment?

01:56

01:56

01:57

01:57

15 A. No, I don't recall.

01:57

16 Q. Is something like this, where a client doesn't  
17 come in for a year and then comes back, is something  
18 like that unusual?

01:57

01:57

19 A. No.

01:57

20 Q. In the period between 2016 and when he came  
21 back in 2017, had -- prior to him rescheduling, had you  
22 had any contact with him?

01:57

01:57

23 A. No.

01:57

24 Q. And during that period of time, after he last  
25 saw you in 2016 and then in 2017, do you know if he

01:57

01:57

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1	sought, you know, psychotherapy elsewhere?	01:57
2	A. No, I don't know.	01:57
3	Q. And when you saw him in September 2017, did he	01:58
4	seem different to you than he had been about a year	01:58
5	prior?	01:58
6	A. No. He seemed about the same.	01:58
7	Q. Was his physical appearance the same?	01:58
8	A. No. I think his hair was falling out. He had	01:58
9	a condition or something with his skin on his head.	01:58
10	Q. Okay. Umm. What about from a mental health	01:58
11	perspective? Was his mental health status the same or	01:58
12	similar to when you last saw him?	01:58
13	A. No. It seemed like it was getting better.	01:58
14	Q. Getting better how? What specifically?	01:59
15	A. Well, he -- They had -- He -- His wife had the	01:59
16	girl, so now he had his son and his baby girl. He had	01:59
17	just got a new job as a security guard at a RV park, and	01:59
18	he said that he had friends that had got him the job.	01:59
19	So there was support there that hadn't been there	01:59
20	before.	01:59
21	Q. On the first part of the "SUMMARY," it	01:59
22	sound -- it says, "Thinks he has Asperger's diagnosis."	01:59
23	Umm. I guess, first, what is Asperger's?	01:59
24	A. It's a form of autism.	01:59
25	Q. And do you know why he was saying that to you?	01:59

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1	A. I think he was just updating me on where he	01:59
2	was at, and he -- It was a self-diagnosis. He had been	01:59
3	doing some research on Google and said that some of the	01:59
4	traits on there seemed like they fit him, and he was	02:00
5	just sharing that with me.	02:00
6	Q. Did you have any clinical opinion as to	02:00
7	whether or not he had Asperger's?	02:00
8	A. No, but I notated it thinking that he was	02:00
9	going to maybe come back and we could look into it	02:00
10	further.	02:00
11	Q. Understood.	02:00
12	And at the time he came in for this	02:00
13	September 2017 appointment, umm, was it his intention to	02:00
14	come back into treatment?	02:00
15	A. I think he was just touching base to see if --	02:00
16	I think he was really just probing the Asperger's thing,	02:00
17	but since I didn't bite for it, he -- that might have	02:00
18	been part of why he didn't come back. I was hoping he	02:00
19	was initiating services.	02:00
20	Q. Sure.	02:00
21	Now, at the bottom of that note, it looks	02:01
22	like it says, "Client was just catching up - refused	02:01
23	further services." Is that what you were referring to?	02:01
24	A. Yes.	02:01
25	Q. So is it fair to say that you felt like he	02:01

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1	could still benefit from treatment at this time but	02:01
2	he -- he'd like to not continue?	02:01
3	A. Yes.	02:01
4	Q. Do you know whether when he stopped treatment	02:01
5	in 2016, did -- was part or any of the reason he stopped	02:01
6	coming because of any loss of Medicaid benefits?	02:01
7	A. I don't know. I don't know at that time. I	02:01
8	know that when he --	02:01
9	Q. Okay.	02:01
10	A. -- came in September seven -- 2017, he said he	02:01
11	had Medicaid, but he didn't, and so I didn't even get	02:02
12	paid for that session [laughed].	02:02
13	Q. I -- I -- Sorry. I missed that. What session	02:02
14	was that?	02:02
15	A. The September 1st, 2017.	02:02
16	Q. Oh, okay. Was there anything concerning to	02:02
17	you at all in Mr. Kelley's presentation to you during	02:02
18	that September 2017 visit?	02:02
19	A. No.	02:02
20	Q. And during the course of this visit did he	02:02
21	discuss anything about being on medication or -- or	02:03
22	medicine?	02:03
23	A. No.	02:03
24	Q. Okay. And when -- It says he refused further	02:03
25	services. Do you recall specifically the reason he gave	02:03

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1	for not wanting to come back?	02:03
2	A. No, I don't recall.	02:03
3	Q. Umm. Did you -- After this visit did you --	02:03
4	did you communicate with him at all in any way?	02:03
5	A. No, I don't think so.	02:03
6	Q. All right. We've gone through the treatment	02:04
7	notes, and I'm just going to, umm, go through a few of	02:04
8	the things -- or -- Mr. Kelley might have talked to you	02:04
9	about just to see if it was mentioned at all. Umm.	02:04
10	Before I get there, just -- I know you	02:04
11	said that he was guarded and had anxiety, umm, you know,	02:04
12	related to the history of bullying. Umm. Other than	02:04
13	some guardedness, did you have any other concerns or	02:04
14	worries about his reporting of the facts and events to	02:04
15	you?	02:04
16	A. No.	02:04
17	Q. Did you feel like he was a truthful person?	02:05
18	A. Yes, as far as I knew.	02:05
19	Q. Do you recall any instances where you might	02:05
20	have thought he might have been lying or not being	02:05
21	truthful with you?	02:05
22	A. No.	02:05
23	Q. And during the course of treatment did he ever	02:05
24	try to embellish or exaggerate problems?	02:05
25	A. No.	02:05

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1	style rifle he had purchased, an assault-type rifle?	02:15
2	Did he ever discuss that?	02:15
3	A. No.	02:15
4	Q. Did he ever talk about, other than hunting,	02:15
5	using firearms, for target shooting or for anything?	02:15
6	A. No.	02:15
7	Q. Did he ever talk about, umm, going to gun	02:15
8	shows?	02:15
9	A. No.	02:15
10	Q. Did he ever talk about purchasing or using	02:15
11	body armor of any kind?	02:16
12	A. No.	02:16
13	Q. Did he -- Other than firearms, did he talk	02:16
14	about owning or using any other types of weapons, knives	02:16
15	or anything else?	02:16
16	A. No.	02:16
17	Q. So he never discussed purchasing or wanting to	02:16
18	purchase any firearms with you; is that right?	02:16
19	A. That's right.	02:16
20	Q. Umm. Turn -- Turning back to, you know, the	02:16
21	events of November 25th -- or - sorry - November 5th,	02:16
22	2017, the Sutherland Springs church shooting, umm, when	02:16
23	you realized that Mr. Kelley was the shooter, how did	02:17
24	you -- well, what did you feel about that?	02:17
25	A. Devastated.	02:17

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1	Q. Were you surprised?	02:17
2	A. Extremely.	02:17
3	Q. Why is that?	02:17
4	A. You -- You never think somebody you're trying	02:17
5	to help is going to do such a horrific thing.	02:17
6	Q. And when you found that out, did you reflect	02:17
7	at all on your course of treatment with him?	02:17
8	A. Of course. Yes.	02:17
9	Q. And in looking back, is there anything you	02:17
10	think you should -- could have done differently?	02:17
11	A. No.	02:17
12	Q. As a trained clinician do you have any sense	02:17
13	on why Mr. Kelley -- Kelley might have done what he did?	02:17
14	MR. SCHREIBER: Objection. Calls for	02:18
15	speculation.	02:18
16	A. I have no idea. I have no idea. It was a	02:18
17	complete surprise.	02:18
18	Q. (BY MR. FURMAN) Understood.	02:18
19	And just to be clear, so the -- the --	02:18
20	the church shooting on the -- November 5th, 2017, that	02:18
21	was nothing you could have foreseen during your	02:18
22	treatment of him as a therapist --	02:18
23	MR. SCHREIBER: Objection.	02:18
24	Q. (BY MR. FURMAN) -- is that right?	02:18
25	MR. SCHREIBER: Calls for a legal	02:18

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1 conclusion. Calls for speculation. 02:18

2 MR. MYERS: You can answer. 02:18

3 A. Oh, I'm sorry. Was that a -- 02:18

4 Q. (BY MR. FURMAN) You can -- 02:18

5 A. -- question? 02:18

6 Q. -- answer. 02:18

7 A. What was -- Oh, can you repeat the question? 02:18

8 I'm sorry. 02:18

9 Q. [Laughed]. I -- I can. He might object 02:18

10 again. So -- 02:18

11 MR. SCHREIBER: I will. 02:18

12 A. [Laughed]. I'm sorry. 02:18

13 Q. (BY MR. FURMAN) [Laughed]. So the -- the 02:18

14 November 5th, 2017, church shooting, umm, there was no 02:18

15 way you could have possibly foresaw that event based off 02:19

16 your treatment of Mr. Kelley, was there? 02:19

17 A. Correct. 02:19

18 MR. SCHREIBER: Objection. Calls for 02:19

19 legal conclusion. Calls for speculation. 02:19

20 A. No, it was not foreseeable with my treatment. 02:19

21 Q. (BY MR. FURMAN) At any point in time did 02:19

22 you -- do you recall learning on the news or otherwise 02:19

23 about Mr. Kelley's criminal background and whether or 02:19

24 not that had been, umm, put in the FBI background check 02:19

25 system? 02:19

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REPORTER'S CERTIFICATION  
DEPOSITION OF CANDACE MCKENZIE MARLOWE  
JUNE 18, 2020

9 I, GLENDA I. GREEN, Certified Shorthand Reporter in  
10 and for the State of Texas, hereby certify to the  
11 following:

12 That the witness, CANDACE MCKENZIE MARLOWE, was  
13 duly sworn by the officer and that the transcript of the  
14 oral deposition is a true record of the testimony given  
15 by the witness;

16 That examination and signature of the witness to  
17 the deposition transcript was waived by the witness and  
18 agreement of the parties at the time of the deposition;

19 That the amount of time used by each party at the  
20 deposition is as follows:

21 Mr. Furman - 3 hours, 57 minutes

22 Mr. Schreiber - 15 minutes

23 That \$\_\_\_\_\_ is the deposition officer's charges  
24 to the Defendant for preparing the original deposition  
25 transcript and any copies of exhibits;

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1 That pursuant to information given to the  
2 deposition officer at the time said testimony was taken,  
3 the following includes counsel for all parties of  
4 record:

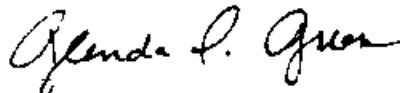
5 MR. JOSEPH SCHREIBER, MS. CHELSIE KING GARZA &  
6 MR. JUSTIN B. DEMERATH, Attorneys for Plaintiffs

7 MR. AUSTIN L. FURMAN & MR. DANIEL P. CHUNG,  
8 Attorneys for Defendant

9 MR. J. GREGORY MYERS, Attorney for Witness

10 I further certify that I am neither counsel for,  
11 related to, nor employed by any of the parties or  
12 attorneys in the action in which this proceeding was  
13 taken, and further that I am not financially or  
14 otherwise interested in the outcome of the action.

15 Certified to by me this 19th day of June, 2020.

16   
17

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GLENDA I. GREEN, Texas CSR 2194  
Expiration Date: 12/31/2016  
ESQUIRE DEPOSITION SOLUTIONS, No. 003  
1235 North Loop West, Suite 510  
Houston, TX 77008  
Office: 832.214.4221  
Email: houstonscheduling@esquiresolutions.com